

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FRIENDSHIPCOLLAR LTD.)	Civil Action No. 5:18-cv-00478-JRA
)	
Plaintiff,)	JUDGE JOHN R. ADAMS
)	
vs.)	
)	
PAWZ, LLC, and CHRISTIAN CAMPISI)	
)	
Defendants.)	<u>JURY TRIAL DEMANDED</u>
)	

**DEFENDANTS PAWZ, LLC AND CHRISTIAN CAMPISI’S ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF FRIENDSHIPCOLLAR LTD.’S COMPLAINT**

Defendants PAWZ, LLC (“PAWZ”) and Christian Campisi (“Campisi”) (collectively hereafter “Defendants”) through their undersigned counsel respond as follows to the Complaint in this action. Everything not given a specific response is DENIED.

1. Defendants are without sufficient information to admit or deny the allegations in Paragraph 1 of the Complaint and therefore, deny the same.
2. Defendants admit the allegations of Paragraph 2 of the Complaint.
3. Defendants admit that Christian Campisi is a natural person and a resident of Stark County, Ohio. Defendants are without sufficient information to admit or deny the basis of Plaintiff’s information and belief concerning the remaining allegations of Paragraph 3 of the Complaint.
4. Defendants admit the allegations of Paragraph 4 of the Complaint.
5. Defendants admit the allegations of Paragraph 5 of the Complaint.
6. Defendants admit the allegations of Paragraph 6 of the Complaint.
7. Defendants deny the allegations of Paragraph 7 of the Complaint.

8. Defendants are without sufficient information to admit or deny the allegations of Paragraph 8 of the Complaint and therefore, deny the same.

9. Defendants are without sufficient information to admit or deny the allegations of Paragraph 9 of the Complaint and therefore, deny the same.

10. Defendants are without sufficient information to admit or deny the allegations of Paragraph 10 of the Complaint and therefore, deny the same.

11. Defendants are without sufficient information to admit or deny the allegations of Paragraph 11 of the Complaint and therefore, deny the same.

12. Defendants are without sufficient information to admit or deny the allegations of Paragraph 12 of the Complaint and therefore, deny the same.

13. Defendants are without sufficient information to admit or deny the allegations of Paragraph 13 of the Complaint and therefore, deny the same.

14. Defendants are without sufficient information to admit or deny the allegations of Paragraph 14 of the Complaint and therefore, deny the same.

15. Defendants are without sufficient information to admit or deny the allegations of Paragraph 15 of the Complaint and therefore, deny the same.

16. Defendants are without sufficient information to admit or deny the allegations of Paragraph 16 of the Complaint and therefore, deny the same.

17. Defendants are without sufficient information to admit or deny the allegations of Paragraph 17 of the Complaint and therefore, deny the same.

18. Defendants are without sufficient information to admit or deny the allegations of Paragraph 18 of the Complaint and therefore, deny the same.

19. Defendants are without sufficient information to admit or deny the allegations of Paragraph 19 of the Complaint and therefore, deny the same.

20. Defendants are without sufficient information to admit or deny the allegations of Paragraph 20 of the Complaint and therefore, deny the same.

21. Defendants are without sufficient information to admit or deny the allegations of Paragraph 21 of the Complaint and therefore, deny the same.

22. Defendants are without sufficient information to admit or deny the allegations of Paragraph 22 of the Complaint and therefore, deny the same.

23. Defendants are without sufficient information to admit or deny the allegations of Paragraph 23 of the Complaint and therefore, deny the same.

24. Defendants deny the allegations of Paragraph 24 of the Complaint.

25. Defendants deny the allegations of Paragraph 25 of the Complaint.

26. Defendants deny the allegations of Paragraph 26 of the Complaint.

27. Defendants deny the allegations of Paragraph 27 of the Complaint.

28. Defendants deny the allegations of Paragraph 28 of the Complaint.

29. Defendants are without sufficient information to admit or deny the allegations of Paragraph 29 of the Complaint and therefore, deny the same.

30. Defendants deny the allegations of Paragraph 30 of the Complaint.

31. Defendants deny the allegations of Paragraph 31 of the Complaint.

32. Defendants deny the allegations of Paragraph 32 of the Complaint.

33. Defendants admit that Defendant PAWZ, LLC operates an instagram.com profile and online sales platform at pawzshop.com. Defendants deny the remaining allegations set forth in

Paragraph 33 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

34. Defendants admit that Defendant PAWZ, LLC offered on its online shop a number of pet collar-and-bracelet sets which were called “Best Friend Bracelet + Collar”. Defendants deny the remaining allegations set forth in Paragraph 34 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

35. Defendants deny the allegations of Paragraph 35 of the Complaint.

36. Defendants deny the allegations of Paragraph 36 of the Complaint.

37. Defendants deny the allegations of Paragraph 37 of the Complaint.

38. Defendants are without sufficient information to admit or deny the allegations of Paragraph 38 of the Complaint and therefore, deny the same.

39. Defendants admit that “Black Gold” is a product offered by Defendant PAWZ, LLC. Defendants deny all other allegations set forth in Paragraph 39.

40. Defendants do not believe that Paragraph 40 asserts any allegation that may be admitted or denied; however, Defendants deny that the language attributable by Plaintiff to “Defendants” is attributable to Defendant Campisi in his personal capacity.

41. Defendants deny the allegations of Paragraph 41 of the Complaint.

42. Defendants admit that there are obvious differences between Defendant PAWZ LLC’s product and Plaintiff’s product. Defendants deny all remaining allegations in Paragraph 42.

43. Defendants deny the allegations of Paragraph 43 of the Complaint.

44. Defendants deny the allegations of Paragraph 44 of the Complaint.

45. Defendants deny the allegations of Paragraph 45 of the Complaint.

46. Defendants admit that there are obvious differences between Defendant PAWZ LLC's packaging and Plaintiff's packaging. Defendants deny all remaining allegations in Paragraph 46.

47. Defendants deny the allegations of Paragraph 47 of the Complaint.

48. Defendants deny the allegations of Paragraph 48 of the Complaint.

49. Defendants deny the allegations of Paragraph 49 of the Complaint.

50. Defendants deny the allegations of Paragraph 50 of the Complaint.

51. Defendants admit the allegations of Paragraph 51. Further answering, Defendants deny that any activity is infringing.

52. Defendants deny the allegations of Paragraph 52 of the Complaint.

53. Defendants admit that Plaintiff sent a letter by e-mail on February 23, 2018. Defendants deny the remaining allegations set forth in Paragraph 53 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

54. Defendants deny that they should be subject to a temporary or permanent injunction and further deny that their acts are somehow improper and, therefore, deny the allegations of Paragraph 54 of the Complaint.

55. Defendants deny the allegations of Paragraph 55 of the Complaint.

56. Defendants admit that Defendant PAWZ, LLC is marketing products on its instagram.com account. Defendants deny the remaining allegations of Paragraph 56 of the Complaint.

57. Defendants deny the allegations of Paragraph 57 of the Complaint.

58. Defendants restate their Answers to Paragraphs 1 through 57 of the Complaint.

59. The allegations set forth in paragraph 59 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph

59 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

60. The allegations set forth in paragraph 60 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 60 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

61. The allegations set forth in paragraph 61 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 61 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

62. The allegations set forth in paragraph 62 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 62 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

63. Defendants restate their Answers to Paragraphs 1 through 62 of the Complaint.

64. The allegations set forth in paragraph 64 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 64 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

65. The allegations set forth in paragraph 65 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 65 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

66. The allegations set forth in paragraph 66 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 66 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

67. Defendants restate their Answers to Paragraphs 1 through 66 of the Complaint.

68. The allegations set forth in paragraph 68 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 68 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

69. Defendants restate their Answers to Paragraphs 1 through 68 of the Complaint.

70. The allegations set forth in paragraph 70 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 70 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

71. The allegations set forth in paragraph 71 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 71 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

72. The allegations set forth in paragraph 72 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 72 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

73. The allegations set forth in paragraph 73 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 73 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

74. The allegations set forth in paragraph 74 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 74 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

75. Defendants restate their Answers to Paragraphs 1 through 74 of the Complaint.

76. The allegations set forth in paragraph 76 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 76 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

77. The allegations set forth in paragraph 77 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 77 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

78. The allegations set forth in paragraph 78 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 78 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

79. The allegations set forth in paragraph 79 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph

79 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

80. The allegations set forth in paragraph 80 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 80 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

81. The allegations set forth in paragraph 81 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 81 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

82. The allegations set forth in paragraph 82 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 82 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

83. The allegations set forth in paragraph 83 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 83 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

84. The allegations set forth in paragraph 84 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 84 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

85. The allegations set forth in paragraph 85 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 85 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

86. The allegations set forth in paragraph 86 of the Complaint contain conclusions of law that require no answer of respondents. Defendants deny the remaining allegations set forth in Paragraph 86 of the Complaint or are otherwise without sufficient information to admit or deny the remaining allegations in this paragraph and therefore, deny the same.

AFFIRMATIVE DEFENSES

First Affirmative Defense

87. The Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

Plaintiff's claims are barred by the doctrine of fair use.

Third Affirmative Defense

88. There is no likelihood of confusion, mistake or deception because Plaintiff's product and Defendant PAWZ, LLC's products are not confusingly similar.

Fourth Affirmative Defense

89. There is no likelihood of confusion, mistake or deception because Plaintiff's product packaging and Defendant PAWZ, LLC's product packaging are not confusingly similar.

Fifth Affirmative Defense

90. The elements of Plaintiff's alleged product and packaging trade dress are functional and therefore legally unprotectable and/or are unpatented and are otherwise unprotectable.

Sixth Affirmative Defense

91. Alternatively, the elements of Plaintiff's alleged product and packaging trade dress are not distinctive and therefore are legally unprotectable.

Seventh Affirmative Defense

92. Plaintiff's alleged product and packaging trade dress are each not famous.

Eighth Affirmative Defense

93. Plaintiff has improperly joined Christian Campisi as an individual Defendant. All conduct alleged by Plaintiff to have been undertaken by Defendants collectively or by Defendant Campisi individually were taken solely on behalf of or are solely attributable to Defendant PAWZ, LLC.

Defendants reserve the right to add additional affirmative defenses based upon further investigation and discovery.

DEMAND FOR A JURY TRIAL

Defendants demand a jury trial, pursuant to Fed. R. Civ. P. 38(b), on all claims as to all issues that may be tried by a jury.

PRAYER FOR RELIEF

FOR THESE REASONS, Defendants pray for judgment against Plaintiff as follows:

- A. This case be deemed frivolous and that Defendants be awarded their reasonable attorneys' fees and costs of this action;
- B. That Defendants be found not to have infringed any intellectual property of Plaintiff;
- C. That Defendants be found to be the prevailing party on all causes of action brought by Plaintiff;

D. This case be dismissed, with prejudice, and such other and further relief, legal and equitable, including attorney's fees, be awarded Defendants.

Respectfully submitted,

EMERSON THOMSON BENNETT, LLC

/s/ John Skeriotis

John M. Skeriotis (Ohio Bar No. 0069263)

jms@etblaw.com

Sergey Vernyuk (Ohio Bar No. 0089101)

sv@etblaw.com

1914 Akron-Peninsula Rd.

Akron, Ohio 44313

(330) 434-9999 – Telephone

(330) 434-8888 – Facsimile

Attorneys for Defendants PAWZ, LLC

and Christian Campisi

NOTICE OF ELECTRONIC FILING

I hereby certify that a copy the foregoing is being filed electronically, on this 9th day of May 2018. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ John Skeriotis

John Skeriotis